

Remarks

Applicants request consideration of the above-referenced patent application.

Amendments to Claims

Applicants have added claims 85-97. Thus, claims 71-97 are pending. Claims 71-74, and 76-82 have been amended in this Amendment C.

Applicants submit that the amendments do not introduce new matter. More specifically:

Claim 71, as filed, uses the same variable to identify different moieties of the recited compound. Applicants submit that the claim is nevertheless sufficiently clear because of, for example, the way the claim is formatted. In an effort to more clearly describe the invention, however, Applicants have inserted superscripts on the various variables to distinguish them from each other. More specifically:

- (a) the "X" and "R" in the first structure of the A¹ definition have been replaced with "X¹⁰" and "R¹⁰",
- (b) the "X" and "R" in the second structure of the A¹ definition have been replaced with "X¹¹" and "R¹¹",
- (c) the "X" and "R" in the third structure of the A¹ definition have been replaced with "X¹²" and "R¹²", and
- (d) the "R" in the "-COR" optional substituent in the A¹ definition has been replaced with "R⁴".

All these amendments are supported by, for example, the text of the specification, which indicates that each of these moieties is a separate entity. The Y³ definition has similarly been amended in claim 73. More specifically:

- (a) the "R₁" in the first structure has been replaced with "R²²",
- (b) the "X" in the third structure has been replaced with "X²⁰",
- (c) the "R₁" in the fourth structure has been replaced with "R²³",
- (d) the "R₁" in the fifth structure has been replaced with "R²⁴",
- (e) the "X" in the sixth structure has been replaced with "X²¹",
- (f) the "R" in the "CH₂B₁R" substituent has been replaced with "R²⁰", and
- (g) the "R" in the "-C≡C-R" substituent has been replaced with "R²¹".

All these amendments are supported by, for example, the text of the specification, which indicates that each of these moieties is a separate entity.

In claim 71, the Z_1 - Z_2 , Y^3 , and Y^4 definitions refer to the R^c substituents as being non-hydrogen substituents. Thus, to make the claim language more consistent, claim 71 has been amended to remove H from the recited list of R^c substituents.

The Y^3 and Y^4 definitions in claim 71 have been amended to encompass Y^3 and Y^4 forming a ring structure. This amendment is consistent with the broadened definition of the elected group set forth in the Office action.

Claims 73, 74, and 76 have been amended to be independent. These amendments to claims 73 and 74 include incorporation of various substituent definitions from claims 71 and 72 (*i.e.*, the claims from which claims 73 and 74 originally indirectly and directly depended).

Claims 77-80 have been amended to expressly include compositions comprising the salts from the recited claims. Similarly, claims 81 and 82 have been amended to expressly include use of the salts from the recited claims.

Other amendments simply rephrase the claims, remove redundancies or unnecessary terms, or correct grammatical or obvious errors. Applicants submit that such amendments do not affect the scope of the claims, and are permissible under MPEP §2163.07.

New claims 85 and 86 are directed to compositions comprising a compound or salt of claim 73, and claims 89 and 90 are directed to compositions comprising a compound or salt of claim 74. These claims track the language of previously added claims 77-80 (which are directed to compositions comprising a compound or salt of claim 71 or 76).

New claims 87 and 88 are directed to method of treatment using a compound or salt of claim 73, and claims 91 and 92 are directed to method of treatment using a compound or salt of claim 74. These claims track the language of previously added claims 81-84 (which are directed to methods using a compound or salt of claim 71 or 76).

New claim 93 encompasses compounds wherein Y^3 and X form a ring structure. This amendment is consistent with the broadened definition of the elected group set forth in the Office action. New claims 94 and 95 are directed to compositions comprising a compound or salt of claim 93, and new claims 96 and 97 are directed to methods of treatment using a compound or salt of claim 93.

Applicants reserve the right to pursue any canceled subject matter and/or any other subject matter disclosed in this application in one or more later-filed divisional and/or continuation applications.

Broadened scope of elected group

The Examiner has expanded the scope of the elected group to include compounds wherein Y³ form a ring with Y⁴ or X. As noted above, Applicants have amended claim 71 to encompass subject matter falling within this expanded scope (*i.e.*, compounds wherein Y³ and Y⁴ form a ring structure). Applicants also have added claim 93, which encompasses additional subject matter falling within the expanded scope (*i.e.*, compounds wherein Y³ and X form a ring structure). Applicants thank the Examiner for reconsidering the scope of the elected group.

Response to rejection of claims 71-84 under 35 U.S.C. §112

Claims 71-84 have been rejected under 35 U.S.C. §112. Applicants request withdrawal of these rejections. In support of this request, Applicants note the following:

Applicants have rearranged the X and Y definitions in claim 71. Applicants submit that these amendments obviate the issue raised in the Office action with respect to the X-Y definition in claim 71.

Applicants have removed “of” from the X definition in claim 72, and submit that this amendment obviates the issue raised in the Office action with respect to claim 72.

Applicants have amended claim 76 to make it directed to compounds and salts rather than methods of treatment. This amendment is consistent with the interpretation of claim 76 set forth in the Office action.

As to the remaining rejected claims, the Office action does not cite any deficiencies supporting a rejection under 35 U.S.C. §112.

New Correspondence Address

An associate power of attorney and a change of correspondence address was filed on March 2, 2004 for this patent application. In accordance with those documents, please send all future correspondence to the undersigned at the following address:

Amendment C
U.S. Appl. 09/881,913
March 22, 2004

David M. Gryte, PTO Reg. No. 41,809
Harness, Dickey & Pierce
Suite 400
7700 Bonhomme
St. Louis, Missouri 63105
(314) 726-7500 (general telephone)
(314) 726-7508 (direct telephone)
(314) 306-5400 (cell/home)
(314) 726-7501 (facsimile)

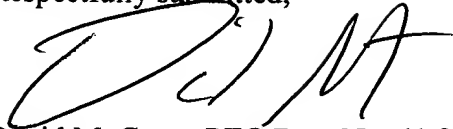
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The Undersigned firm unintentionally failed to timely respond to the September 17, 2003 Office action. Applicants are therefore filing this Amendment C along with a petition for revival of this application and a petition for a 3-month extension. Accordingly, Applicants have enclosed a check to cover the fees for these petitions. Applicants believe that any claim fees (*i.e.*, fees for new claims and fees for converting dependent claims into independent claims) are offset by the fees associated with the previously canceled claims. Applicants therefore believe that they do not owe any additional fee in connection with this filing. If, however, Applicants do owe any such fee(s), the Commissioner is hereby authorized to charge the fee(s) to Deposit Account No. **08-0750**. In addition, if there is ever any other fee deficiency or overpayment under 37 C.F.R. §1.16 or 1.17 in connection with this patent application, the Commissioner is hereby authorized to charge such deficiency or overpayment to Deposit Account No. **08-0750**.

Applicants submit that the pending claims are in condition for allowance, and request that this application be allowed. The Examiner is requested to call the Undersigned if any issues arise that can be addressed over the phone to expedite examination of this application.

Amendment C
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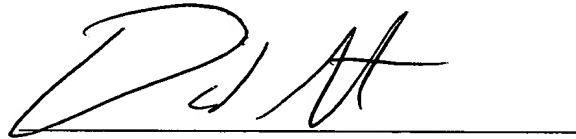
Respectfully submitted,



David M. Gryte, PTO Reg. No. 41,809
Harness, Dickey & Pierce, LLC
Suite 400
7700 Bonhomme
St. Louis, Missouri 63105
(314) 726-7500 (general tel)
(314) 726-7508 (direct tel)
(314) 306-5400 (cell/home)
(314) 726-7501 (fax)

CERTIFICATE OF MAILING UNDER 37 CFR § 1.8

I certify that this correspondence is being deposited with the U.S. Postal Service on **March 22, 2004** with sufficient postage as first class mail (including Express Mail per MPEP §512), and addressed to **Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**.



DMG/PML